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REMARKS

In accordance with the above amendments, claim 1 has been amended. Claims 1-7, 9-24 and 26-34 remain under consideration in this application. No claim has been allowed.

Elections.

In the detailed Action, restriction to one of the following inventions under 35 USC § 121 has again been required by the Examiner:

- I. Claims 1-7 and 9-24, drawn to an apparatus for controlling a load;
- II. Claims 26-34, drawn to a method to control the load on a joint.

In response to the requirement, applicant again elects the claims of Group I, i.e., claims 1-7 and 9-24, drawn to an apparatus for controlling a load. This election is made with traverse and it is respectfully requested that, in view of the above amendments and the remarks that follow, the restriction requirement be withdrawn and all the claims examined.

In addition, the application is deemed to contain claims directed to certain listed patentably distinct species as follows:

1. FIG. 3A
2. FIG. 3C-D
3. FIG. 3F

4. FIG. 7

With respect to Fig. 3, the applicant would like to, in the alternative, elect the species of Fig. 3E as a species election. In the conversation with Examiner Mary Hoffman, she indicated that this would be acceptable as an alternative to the listed species set forth. This is gratefully acknowledged. However, applicant also traverses the requirement of this species election requirement.

It is believed that claims 1-9, 14-16, 18-24 and 26-34 read on this elected species.

Reasons for Traverse.

As indicated in applicant's earlier paper dated October 30, 2006, and for even stronger reasons based on the present amendments to claim 1, it is believed that claim 1 makes it clear that the apparatus cannot, under any reasonable interpretation, be used to practice another materially different method to that claimed in claim 26 of the application. The invention clearly is dedicated to use connecting two bones over an articular joint as claimed. The apparatus clearly is not designed to be used, nor is it useful, on a long bone as suggested by the Examiner. The functional statement is clearly not limited to the preamble.

In addition, the applicant traverses the requirement of further election of species based on the figures. The listed Figs. 3A, 3C-D, 3F and 7 and the elected species of Fig. 3E are

clearly described as being intended to be used either in isolation or in any combination. Please note, for example, the passage at page 13, lines 13-21 which makes the intention of interchangeability between devices and combinations quite clear.

It will also be appreciated that in Fig. 6, an example is illustrated in which link 3A is varied in length so as to create a bending force across a joint. It should be noted that the same result is achievable by a combination of 3A with 3C, 3D, 3E or 3F.

Further pertinent reference to the text may be had, for example, in the paragraph which bridges pages 11 and 12 and which describes initially the embodiment of the invention shown in Fig. 2. The text further describes the use of various link assemblies described in connection with Fig. 3 in the combination in the configuration shown in Fig. 2.

Thus, to limit the link assembly to one species in a situation where the use of many such species interchangeably is a contemplated aspect of the invention, is believed to be unwarranted and unduly restrictive with respect to the scope of the present invention. Accordingly, reconsideration and withdrawal of this restriction requirement is respectfully requested.

Applicant now believes that both the apparatus and process claims, including all illustrated link assembly species, are of

a corresponding scope and are directed to a single inventive concept and therefore, respectfully requests that the Examiner reconsider her position and rejoin all the claims for examination.

Applicant looks forward to favorable consideration and early examination and allowance of all the claims.

Respectfully submitted,

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